

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

&

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

WP(C).No. 14073 of 2007(S)

PETITIONER:

1. PORUVAZHY MAYYATHUMKARA SHAFFI
JAMA-TH, REPRESENTED BY ITS PRESIDENT SUBAIR KUNJU
PUTHENPURA KIZHAKKATHIL, KAMPALADI MURI,
PORUVAZHY, SASTHAMCOTTA, KOLLAM.
2. AHAMMEDKUTTY,
PUTHENKUZHY, KAMPALADI MURI,
PORUVAZHY, SASTHAMCOTTA, KOLLAM.
3. ALIYARUKUTTY,
ABDULLA MANZIL, KAMPALADI MURI, PORUVAZHY,
SASTHAMCOTTA, KOLLAM.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS:

1. SAINUDEENKUTTY, PUTHUVILA VEEDU,
KAMPALADI MURI, PORUVAZHY, SASTHAMCOTTA, KOLLAM.
2. ASHRAF, KANJIRATHUM VADAKKATHIL,
PALLI MURI, PORUVAZHY, SASTHAMCOTTA, KOLLAM.
3. P.V.SAINUDEEN, CHARUVILA VADAKKATHIL,
KAMPALADI MURI, PORUVAZHY, SASTHAMCOTTA, KOLLAM.
4. A.SIDDIQUE, THERUVINTE THEKKATHIL,
PORIVAZHY, SASTHAMCOTTA, KOLLAM.
5. M.NOORUDEENKUTTY, DARUL NOOR,
PORUVAZHY, SASTHAMCOTTA, KOLLAM.
6. V.NAZEER, NAZEER MANSIL,
PANAPETTI MURI, SASTHAMCOTTA, KOLLAM.

7. A.YOUSUF KUNJU, KOTTUNGAL VEEDU,
KAMPALADI MURI, PORUVAZHY, SASTHAMCOTTA, KOLLAM.
8. ABDUL RASHEED,KOIPURATHU VEEDU,
PALLIMURI, PORUVAZHY, SASTHAMCOTTA, KOLLAM.
9. V.S.ABDUL SALAM, VADAKKEVILA VEEDU,
PALLIMURI, PORUVAZHY, SASTHAMCOTTA, KOLLAM.
10. M.KOYAKUTTY, NEDUMPINAN VEEDU,
KAMPALADI MURI, PORUVAZHY,
SASTHAMCOTTA, KOLLAM.
11. H.MUHAMMED KUNJU, THAZHE THUNDIL
KAMPALADI MURI, PORUVAZHY, SASTHAMCOTTA,
KOLLAM.
12. V.MUHAMMED KUNJU, PARAPPURATHU VEEDU,
PANAPETTI MURI, SASTHAMCOTTA, KOLLAM.
13. M.BASHEER, VAISYANTAYYATH,
KAMPALADI MURI, PORUVAZHY, SASTHAMCOTTA, KOLLAM.
14. M.SAINUDEEN, NADAKKAVINTE KIZHOKKATHIL,
PALLI MURI, PORUVAZHY, SASTHAMCOTTA, KOLLAM.
15. P.SAINUDEEN, CHENTHRAKUZHIYIL,
PADINJATTAM KIZHAKKUMURI, SOORANAD,
SASTHAMOCTTA, KOLLAM.
16. P.M.ASHRAF, AJEENA MANZIL,
PADINJATTAM KIZHAKKUMURI SOORANAD.
17. M.ALIYARKUTTY, MANZOOR MANZIL,
PALLI MURI, PORUVAZHY, SASTHAMCOTTA, KOLLAM.
18. JALALUDHEEN KUNJU, SHYLA MANZIL,
PANAMPETTI MURI, SASTHAMCOTTA, KOLLAM.

BY ADV. SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN
SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.P(C)No.14073/2007

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. TRUE COPY OF THE PLAINT IN O.S.NO.2/2007 FILED BY THE RESPONDENTS BEFORE THE WAKF TRIBUNAL, KOLLAM

EXT.P2. TRUE COPY OF THE DECISION OF THE NO CONFIDENCE MOTION DECIDED BY THE PETITIONERS IN THE COMMITTEE DATED 13-1-2007

EXT.P3. TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE PETITIONERS IN O.S.NO.2/2007

EXT.P4. TRUE COPY OF THE COMMON ORDER IN I.A.NO.112/2007 & 113/2007 OF THE WAKF TRIBUNAL DATED 12-4-2007

EXT.P5. TRUE COPY OF THE POSTAL COVER.

/ TRUE COPY /

P.S.TO JUDGE

KURIAN JOSEPH & T.R.RAMACHANDRAN NAIR, JJ.

W.P(C)No.14073 of 2007

Dated this the 10th day of August, 2007

JUDGMENT

Kurian Joseph,J.

The challenge is on the common order passed by the Wakf Tribunal, Kollam in I.A.Nos.112/2007 and 113/2007 in O.S.No.2/2007. In I.A.No.112/2007 the respondents prayed for an order of injunction restraining the present Committee from taking any policy decision till the no confidence motion scheduled to be held on 13-1-2007 is convened. The other application, I.A.No.113/2007 is for appointing an advocate commissioner to preside over the meeting to be convened for deciding the no confidence motion. On the basis of the evidence on record the Tribunal noticed that the no confidence motion had already been held on 13-1-2007. However, it is the case of the respondents that the meeting was not properly held and hence they moved an application for amending the suit for appropriate reliefs and the same was allowed also. Be that as it may despite taking note of the fact that the meeting slated to be held on 13-1-2007 had already been held, the Tribunal instead of passing orders on the said factual matrix proceeded further and granted other reliefs with regard to convening of the meeting and taking of decisions. No doubt if the bye-law permits for

moving a fresh no confidence motion it is for the parties concerned to take appropriate steps. But those were not the subject matter of the interlocutory applications before the court which led to the impugned order. Therefore, the Tribunal exceeded in its jurisdiction in passing the orders with regard to the no confidence motion, the policy decisions etc. Therefore, we set aside Ext.P4 order in so far as the observations and directions contained in paragraphs 4, 5 and 6 of the said order. The consequential order dated 20-4-2007 is also set aside. However, we make it clear that it will be open to the parties to take appropriate contentions regarding the legality or validity of the meeting already held on 13-1-2007. We also make it clear that it will be open to the parties to move the Tribunal for appropriate orders taking note of the developments.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

(T.R.RAMACHANDRAN NAIR, JUDGE)

ahg.